

Remarks

The Final Office Action dated October 27, 2009 lists the following rejections: claims 4, 8-9 and 12-14 stand rejected under 35 U.S.C. § 112(1), claims 9 and 12 stand rejected under 35 U.S.C. § 102(b) over Ohta (U.S. Patent Pub. 2001/0033278); and claims 1-8, 10-11 and 13-14 stand rejected under 35 U.S.C. §103(a) over the ‘278 reference. In the discussion set forth below, Applicant does not acquiesce to any rejection or averment in this Office Action unless Applicant expressly indicates otherwise.

Applicant respectfully submits that each of the Examiner’s rejections are based upon serious logical fallacies and that the instant application is therefore not in a proper condition for Appeal. Applicant believes that a careful review of the rejection would show the need to withdraw the current rejections and to allow the application.

Regarding the rejection of claims 4, 8-9 and 12-14 under 35 U.S.C. § 112(1), the Examiner’s rejection is *prima facie* invalid because it relies upon an improper application of § 112(1). M.P.E.P. § 2161.01 explains that (emphasis original) “(w)hen basing a rejection on the failure of the applicant’s disclosure to meet the enablement provisions of the first paragraph of 35 U.S.C. 112, USPTO personnel must establish on the record a reasonable basis for questioning the adequacy of the disclosure to enable a person of ordinary skill in the art to make and use the claimed invention without resorting to *undue experimentation*.” *See also, In re Brown*, 477 F.2d 946 (CCPA 1973); *In re Ghiron*, 442 F.2d 985 (CCPA 1971). The Examiner has instead rejected the claims for an alleged lack of “explicit description” and in doing so failed to present any articulated reason or evidence to show that undue experimentation would be required. A claim of lack of explicit description, without more, is *prima facie* insufficient to establish a reasonable basis for questioning the adequacy of the disclosure with regard to an amount of experimentation. Accordingly, the rejection fails without further discussion.

Notwithstanding, FIG. 2 and related discussion of Applicant’s disclosure does provide explicit support (*see, e.g.*, the logic circuitry between each of the shift registers and the row outputs).

Regarding the rejections under 35 U.S.C. § 102(b) and under 35 U.S.C. §103(a), the Examiner’s conclusion regarding the primary ‘278 reference are expressly

contradicted by the teachings of the ‘278 reference. As such, the Examiner has failed to consider the claim limitations as a whole and does not show correspondence to each limitation. The Examiner’s response to arguments highlights a fatal flaw in the Examiner’s interpretation of the only cited reference. The Examiner is mistaken in regards to how the ‘278 reference implements the “unscanned area” relied upon in the rejection. The ‘278 reference expressly states that the unscanned areas are implemented using what the Examiner has identified as the column driver, *i.e.*, a driver deactivation means to control source driver 2 (*see, e.g.*, paragraph 50). This source driver 2 does not correspond to Applicant’s claimed row drive circuit, which sequentially drives rows. Moreover, each of the “rows” of gate driver 3 is still driven regardless of whether or not the “columns” of the source driver 2 are driven. That is to say, the row driver still drives voltages on the rows of the unscanned areas, but they are considered unscanned because of how the column driver is controlled. Accordingly, the Examiner has failed to show correspondence to each of the limitations and the rejections should be withdrawn.

Moreover, the ‘278 reference teaches away from preventing the row drive circuit from driving selected rows of the display in the partial mode. Consistent with the recent Supreme Court decision, M.P.E.P. § 2143.01 explains the long-standing principle that a §103 rejection cannot be maintained when the asserted modification undermines either the operation or the purpose of the main (‘278) reference - the rationale being that the prior art teaches away from such a modification. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007) (“[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious.”). In this instance, the ‘278 reference teaches that the partial mode is effected by simultaneously applying drive signals to the respective scanning lines in the non-display portions 1b and 1c of display 1, as discussed above. As such, the ‘278 reference teaches away from preventing the row drive circuit from driving selected rows of the display because such a modification would change the principle of operation of the ‘278 reference. *See, e.g.*, M.P.E.P. § 2143.01 (“If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”). Accordingly, such a modification of the ‘278

reference is not "a matter of obvious choice to one of ordinary skill in the art" (*see* page 5 of the instant Office Action) and there is no motivation for the proposed modification of the '278 reference.

In view of the above, the § 102(b) and § 103(a) rejections are improper and Applicant requests that they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, David Schaeffer, of NXP Corporation at (212) 876-6170 (or the undersigned).

Please direct all correspondence to:

Corporate Patent Counsel
NXP Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131

CUSTOMER NO. 65913

By: 
Name: Robert J. Crawford
Reg. No.: 32,122
Shane O. Sondreal
Reg. No.: 60,145
651-686-6633 x2300
(NXPS.294PA)